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President

Reproductive Equity Now

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Booker T. Bush, MD, Chair, Physician Member

George Zachos, JD, Executive Director

The Commonwealth of Massachusetts Board of Registration in Medicine

178 Albion Street, Suite 330

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RE: Reproductive Equity Now Written Comment on the recently proposed amendments filed on January 9, 2025, on an emergency basis, to 243 CMR 1.00: *Disciplinary Proceedings for Physicians* and 243 CMR 2.00: *Licensing and the Practice of Medicine*.

Dear Chair Bush and Executive Director Zachos:

On behalf of Reproductive Equity Now, I write to thank the Board of Registration in Medicine for its steadfast commitment to protecting and expanding reproductive equity in Massachusetts as evidenced by the proposed amendments on an emergency basis to 243 CMR 1.00 and 243 CMR 2.00. Reproductive Equity Now (REN) is a grassroots organization focused on promoting equitable access to the full spectrum of reproductive health care for all people regardless of their race, ethnicity, income, zip code, gender, immigration status, ability, sexual orientation, or religion. Advancing reproductive justice and eliminating barriers to abortion are central to our mission.

**Reproductive Equity Now strongly supports the proposed amendments to 243 CMR 1.00: *Disciplinary Proceedings for Physicians* and 243 CMR 2.00: *Licensing and the Practice of Medicine* which build upon the strong policies BORIM has already adopted after the enactment of the Massachusetts Shield law. REN commends BORIM for providing additional clarity to providers with these emergency regulations to ensure that health care professionals are both adequately informed and protected under the law.**

Since the Supreme Court overturned the constitutional right to abortion in *Dobbs v. Jackson Women’s Health* and 18 states either banned or severely restricted abortion access, protective states like Massachusetts have moved to protect and expand access to abortion with the enactment of H.5090, *An Act expanding protections for reproductive and gender-affirming care,* (henceforth referred to as the Massachusetts Shield Law) in 2022.[[1]](#footnote-0) The landmark legislation advanced numerous protections for reproductive care and gender-affirming care, including provider licensure protections for the provision of legally protected health care and provisions which serve to insulate patients and providers from hostile actors interfering with the provision of health care that Massachusetts deems lawful and protected.

With the passage of this legislation, Massachusetts was the first state to enact telehealth shield law provisions to protect abortion providers, helpers, and patients who seek care occurring within the state borders, and protections for telehealth medication abortions *regardless of the location of the patient*.[[2]](#footnote-1) While standard telehealth practice considers health care to have occurred where the patient is located, these telehealth shield laws permit providers to provide medication abortion care via telemedicine (and with the protections of the shield law provisions) *regardless of the patient’s location*. In addition to protecting patients who may travel to Massachusetts to access abortion care, the Massachusetts Shield Law created a legal framework where Massachusetts-based health care providers can provide medication abortion to patients located outside of Massachusetts. Massachusetts is now joined by seven other states in enacting a telehealth shield law.[[3]](#footnote-2) These emergency regulations are particularly timely with the recent Texas lawsuit against a New York doctor for the alleged provision of medication abortion to a Texas patient and the recent criminal indictment of the same doctor in Louisiana.[[4]](#footnote-3)

The proposed amendments add to the supportive policies BORIM has adopted with Policy 2022-06, Policy Implementing Chapter 127, An Act Expanding Protections for Reproductive And Gender Affirming Care, and the amended Policy 2020-01, Policy on Telemedicine in the Commonwealth.[[5]](#footnote-4) The proposed amendments give providers clarity on the licensure protection and provision of care protected under the Shield Law to ensure that providers can confidently provide care to patients, whether patients are residents of the Commonwealth, traveling to the Commonwealth for health care, or receiving health care from Massachusetts providers via telehealth. We applaud BORIM for further clarifying that a provider will not face repercussions to their license to practice for providing or assisting in the provision of reproductive health care services or gender-affirming care services that are provided lawfully under Massachusetts law and are consistent with the standards of professional practice.

**With growing threats to abortion providers, these emergency regulations give providers clarity and peace of mind for providing reproductive health care to non-resident patients who travel to Massachusetts as well as to patients provided care via telehealth.** Patients continue to travel to Massachusetts to seek abortion care, and preliminary data suggests the number of patients traveling to Massachusetts is increasing. The number of abortions reported in Massachusetts has grown in volume and has seen massive increases in non-resident patients. Two thousand twenty-three data indicates that of 24,355 reported abortions in the Commonwealth for both telehealth and in-person care, 6,115 were obtained by non-Massachusetts residents.[[6]](#footnote-5) Patient residences span the entire United States, with the largest number of patients served from the geographic areas of: the Mid-Atlantic Region (1290 patients), Pacific Region (1123 patients), Plains Region (860 patients), New England states beyond Massachusetts (824 patients), Southeast (765 patients), and Gulf Coast (601 patients).[[7]](#footnote-6) Two thousand twenty-three data for the first time captured whether abortion care was obtained via telehealth, though the exact physical location of the patient at the time of the appointment is not captured in state data. **Out-of-state patients provided care by Massachusetts providers grew from 920 patients served in 2022 to 6,115 in 2023—*an astonishing 564.67% increase*.** Comparatively, in 2022, the year *Roe* fell, there was a 16% increase in the number of out-of-state patients receiving abortion care in Massachusetts, with 920 out-of-state patients (of 17,757 total patients) documented in 2022 (accounting for just over 5% of all abortions in Massachusetts), compared to 792 out-of-state patients (of 16,795 total patients) in 2021.[[8]](#footnote-7) Similarly, at Planned Parenthood centers in Massachusetts, the number of out-of-state patients traveling to Massachusetts grew an estimated 37.5% in the first four months following the *Dobbs* decision compared to the same time period during the previous year.[[9]](#footnote-8) Researchers reported the increase was driven largely by people outside of New England, with a notable number of patients traveling from Texas.[[10]](#footnote-9) Both the Department of Public Health data and the Planned Parenthood data show a steady increase in out-of-state patients — with the state data comparing actual visits for multiple abortion providers over a two-year period and Planned Parenthood capturing expected trends.

At the same time, patients are increasingly opting for medication abortion. Department of Public Health data from 2023 indicates that medication abortion accounts for 15,788 of the 24,355 reported abortions in Massachusetts, accounting for a 54% increase from the previous year.[[11]](#footnote-10) Of the reported medication abortions, 6,665 were provided via telehealth.[[12]](#footnote-11) Comparatively, medication abortion in Massachusetts accounted for more than 50% of abortions in Massachusetts in 2022. National data indicates that in the U.S. health care system, the use of medication abortion has risen from 53% in 2020 to 63% in 2023.[[13]](#footnote-12) As we anticipate the possibility of new federal restrictions on the availability of mifepristone or enforcement of the Comstock Act under a hostile Trump Administration, it is very possible that Massachusetts will need to prepare for a surge in demand for in-person and procedural care, as well as an additional surge in travel to the Commonwealth for such care. Given these looming threats, it is even more imperative that BORIM takes this immediate action to implement clear policies for its registered physicians.

We applaud BORIM for further cementing Massachusetts’ leadership in reproductive equity. Thank you for the opportunity to submit comments.

Sincerely,



Rebecca Hart Holder

President

Reproductive Equity Now

1. *Interactive Map: US Abortion Policies and Access After Roe*, Guttmacher Inst., <https://states.guttmacher.org/policies/> (current as of Feb. 12, 2025); *An Act Expanding Protections for Reproductive and Gender Affirming Care*, 2022 Mass. Acts ch. 127. [↑](#footnote-ref-0)
2. *An Act Expanding Protections for Reproductive and Gender Affirming Care*, 2022 Mass. Acts ch. 127. [↑](#footnote-ref-1)
3. In addition to Massachusetts, California, Colorado, Maine, New York, Rhode Island, Washington, and Vermont have enacted telehealth shield laws. *See* 2022 Mass. Acts ch. 127; 2023 Cal. Stat. ch. 260; 2023 Colo. Sess. Laws ch. 68; 2024; Me. Laws ch. 648 ; 2023 N.Y. Laws ch. 138; 2023; R.I. Gen. Laws § § 23-100-2—9, 23-17-53; Wash. Rev. Code § 18.130.450; Wash. Rev. Code §§ 7.115.010, 7.115.020, 7.115.030, 7.115.040, 7.115.050 ; 2023 Vt. Acts & Resolves 14; 2023 Vt. Acts & Resolves 15. [↑](#footnote-ref-2)
4. Pam Belluck & Mary Beth Gahan*, Texas Judge Fines New York Doctor and Orders Her to Stop Sending Abortion Pills to Texas*, N.Y. Times (Feb. 13, 2025), <https://www.nytimes.com/2025/02/13/health/texas-new-york-abortion-pills-lawsuit.html>. [↑](#footnote-ref-3)
5. Mass BD. of Registration in Med., Policy 2022-06 (Sept. 22, 2022); Mass BD. of Registration in Med., Policy 2020-01 (amended Oct. 6, 2022). [↑](#footnote-ref-4)
6. *Massachusetts Inducted Termination of Pregnancy 2023*, Mass. Dep’t of Pub. Health (Nov. 2024), <https://www.mass.gov/doc/massachusetts-induced-termination-of-pregnancy-2023-pdf/download>. [↑](#footnote-ref-5)
7. *Id.* at Table 7. [↑](#footnote-ref-6)
8. *Massachusetts Inducted Termination of Pregnancy 2023* Mass. Dep’t of Pub. Health (2022), <https://www.mass.gov/doc/massachusetts-induced-termination-of-pregnancy-2023-pdf/download>*; Massachusetts Inducted Termination of Pregnancy 2021,* Mass. Dep’t of Pub. Health (2022), <https://www.mass.gov/doc/massachusetts-induced-termination-of-pregnancy-2021-pdf/download>. [↑](#footnote-ref-7)
9. Brianna Keefe-Oates et al., *Use of Abortion Services in Massachusetts After the Dobbs Decision Among In-State vs Out-of-State Residents*, JAMA Open Access (Sept. 6, 2023), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2808962>. [↑](#footnote-ref-8)
10. Jessica Bartlett, *Number of out-of-state travelers seeking abortions at Mass. Planned Parenthood grew 37% after Dobbs*, The Boston Globe (Sept. 6, 2023 6:55 PM), <https://www.bostonglobe.com/2023/09/06/metro/number-out-of-state-travelers-seeking-abortions-mass-grew-by-37-percent-after-dobbs/>. [↑](#footnote-ref-9)
11. Mass. Dep’t of Pub. Health, *supra.* Note 4 at Table 5. [↑](#footnote-ref-10)
12. *Id.* [↑](#footnote-ref-11)
13. This data does not capture all abortions, as we know people are accessing abortion medication through informal community networks. *See Monthly Abortion Provision Study*, Guttmacher Institute, <https://www.guttmacher.org/monthly-abortion-provision-study> (last visited Dec. 17, 2024). [↑](#footnote-ref-12)